



Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Board of Housing and Community Development
Virginia Administrative Code (VAC) citation	13 VAC5-21
Regulation title	Virginia Certification Standards
Action title	Update the Virginia Certification Standards
Date this document prepared	10/10/2006

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

The regulatory action is to update the regulation to coordinate with the building and fire regulations of the Department that are being updated to reference the newest available nationally recognized model codes and standards. Since the national codes are so comprehensive in their scope, the agency will accept comment on all provisions of the regulation to insure its compatibility with the latest codes.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

The statutory authority to update the regulation is contained in § 36-137 of the Code of Virginia. The promulgating agency is the Board of Housing and Community Development. As the regulation is a companion to the building and fire regulations of the Department which state law

requires keeping up to date, the Board updates this regulation whenever updating the building and fire regulations.

Need

Please detail the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, delineate any potential issues that may need to be addressed as the regulation is developed.

This regulatory update is needed to coordinate its provisions with the building and fire safety provisions of the Uniform Statewide Building Code and the Statewide Fire Prevention Code which will be updated to the 2006 national model codes.

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed.

The Virginia Certification Standards (the “VCS”) is coordinated with the building and fire regulations of the Department and sets the standards for when local building and fire inspectors must be certified. The regulation also establishes the criteria for such certification. The specific reason for the action being essential to protect the health, safety or welfare of Virginia’s citizens is that when new nationally recognized standards become available and are considered for incorporation into the Department’s building and fire regulations, since the VCS are companion regulations, revisions to the VCS are considered at the same time. Potential issues to be addressed during the updating of the VCS are generally determined by the client groups who review the current VCS in conjunction with the new building and fire regulations and submit comments where appropriate.

The Virginia Certification Standards are under review by the Building Code Academy Advisory Board (BCAAC). The BCAAC was established by legislation as an advisory board to the Board of Housing and Community Development (BHCD).

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also, please describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.

There are no viable alternatives that the Department is aware of which will accomplish the purpose of the action.

Public participation

Please indicate the agency is seeking comments on the intended regulatory action, to include ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments on this notice.

The agency is seeking comments on the intended regulatory action, including but not limited to 1) ideas to assist in the development of a proposal, 2) the costs and benefits of the alternatives stated in this background document or other alternatives and 3) potential impacts of the regulation. The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so **at the public hearing (date to be announced)** by mail, email or fax to **the agency contact**. Written comments must include the name and address of the commenter. In order to be considered comments must be received by the last day of the public comment period.

A public hearing will be held and notice of the hearing may be found on the Virginia Regulatory Town Hall website (www.townhall.virginia.gov) and can be found in the Calendar of Events section of the Virginia Register of Regulations. Both oral and written comments may be submitted at that time.

Participatory approach

Please indicate, to the extent known, if advisers (e.g., ad hoc advisory committees, technical advisory committees) will be involved in the development of the proposed regulation. Indicate that 1) the agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach; 2) the agency is using the participatory approach in the development of the proposal; or 3) the agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.

The agency is using the participatory approach in the development of the proposal. The Virginia Certification Standards are under review by the Building Code Academy Advisory Board (BCAAC). The BCAAC was established by legislation as an advisory board the Board of Housing and Community Development (BHCD). The Board uses its Codes and Standards Committee to review all proposed amendments. Additionally the Board has adopted the following procedure for receiving public comment:

PROCEDURE

1. Staff will draft a base document for each regulation under consideration. The purpose of the base document is to make those changes necessary to the regulation to (i) correct unclear or grammatically incorrect language, (ii) correlate the existing regulation with a newer edition of a model code, (iii) make changes necessary to comport with state law, and (iv) reformat or change the arrangement of the regulation as needed.

2. Staff also will identify for the Committee any major differences between the editions of the model codes used in the current regulations and the editions of the new model codes being considered. Also, any issues or items that the Board has specifically asked to be considered for the proposed regulation and any code changes that are legislatively mandated will be brought to the Codes and Standards Committee.
3. Steps 1 and 2 above will provide the basis for developing a proposed regulation. Once proposed regulation is adopted by the Board and published, a 60-day public comment period (the first comment period) will be initiated. After the comment period closes, staff will review all comments and prepare staff evaluations (similar to the ones used in the past code change cycle). A package containing all the public comment and staff evaluations will be prepared and disseminated to the client groups for review.
4. An additional 30-day or 60-day public comment period (the second comment period) will be advertised. A public hearing will be held during this second comment period. After the second comment period, staff will prepare a package containing all public comment and the staff evaluations for the Codes and Standards Committee.
5. The Codes and Standards Committee will consider all public comment in its deliberations and will develop recommendations for the Board for final regulations.

Family impact

Assess the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The Department is not aware of any potential impact of this action on the institution of the family or on family stability.